



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2010-0389; FRL-9832-1]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Second Ten-Year PM₁₀ Maintenance Plan for Cañon City

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action approving State Implementation Plan (SIP) revisions submitted by the State of Colorado. On June 18, 2009, the Governor of Colorado's designee submitted to EPA a revised maintenance plan for the Cañon City area for the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀), which was adopted by the State on November 20, 2008. As required by Clean Air Act (CAA) section 175A(b), this revised maintenance plan addresses maintenance of the PM₁₀ standard for a second 10-year period beyond the area's original redesignation to attainment for the PM₁₀ NAAQS. In addition, EPA is also taking final action approving the revised maintenance plan's 2020 transportation conformity motor vehicle emissions budget for PM₁₀. This action is being taken under sections 110 and 175A of the CAA.

DATES: This rule is effective on [Insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will

not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2010-0389, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: ostigaard.crystal@epa.gov.
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- Mail: Carl Daly, Director, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- Hand Delivery: Carl Daly, Director, Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-OAR-2010-0389.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through

<http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air Program, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Crystal Ostigaard, Air Program, U.S.

Environmental Protection Agency, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6602, ostigaard.crystal@epa.gov.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials APCD mean or refer to the Colorado Air Pollution Control Division.
- (iii) The initials AQCC mean or refer to the Colorado Air Quality Control Commission.
- (iv) The initials AQS mean or refer to the EPA Air Quality System database.
- (v) The words Colorado and State mean or refer to the State of Colorado.
- (vi) The initials CDOT mean or refer to the Colorado Department of Transportation.
- (vii) The initials CDPHE mean or refer to the Colorado Department of Public Health and Environment.
- (viii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.
- (ix) The initials FHWA mean or refer to the Federal Highway Administration.
- (x) The initials FTA mean or refer to the Federal Transit Administration.
- (xi) The initials MVEB mean or refer to motor vehicle emissions budget.
- (xii) The initials NAAQS mean or refer to National Ambient Air Quality Standard.

- (xiii) The initials PM₁₀ mean or refer to particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (coarse particulate matter).
- (xiv) The initials RTP mean or refer to the Regional Transportation Plan.
- (xv) The initials SIP mean or refer to State Implementation Plan.
- (xvi) The initials TIP mean or refer to the Transportation Improvement Program.
- (xvii) The initials TSD mean or refer to technical support document.

Table of Contents

I. General Information

II. Background

III. What was the State's Process?

IV. EPA's Evaluation of the Revised Cañon City PM₁₀ Maintenance Plan

V. Final Action

VI. Statutory and Executive Order Reviews

I. General Information

1. *Submitting CBI.* Do not submit CBI to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- b. Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

II. Background

The Cañon City area was designated nonattainment for PM₁₀ and classified as moderate by operation of law upon enactment of the CAA Amendments of 1990. See 56 FR 56694, 56705, 56736 (November 6, 1991). EPA approved Colorado's nonattainment area SIP for the Cañon City PM₁₀ nonattainment area on December 23, 1993 (58 FR 68036) and its PM₁₀ contingency measures SIP for the area on December 14, 1994 (59 FR 64332).

On September 22, 1997, the Governor of Colorado submitted a request to EPA to redesignate the Cañon City moderate PM₁₀ nonattainment area to attainment for the 1987 PM₁₀ NAAQS. Along with this request, the State submitted a maintenance plan, which demonstrated that the area was expected to remain in attainment of the PM₁₀ NAAQS through 2015. EPA approved the Cañon City maintenance plan and redesignation to attainment on May 30, 2000 (65 FR 34399).

Eight years after an area is redesignated to attainment, CAA section 175A(b) requires the state to submit a subsequent maintenance plan to EPA, covering a second 10-year period.¹ This second 10-year maintenance plan must demonstrate continued maintenance of the applicable NAAQS during this second 10-year period. To fulfill this requirement of the Act, the Governor of Colorado's designee submitted the second 10-year update of the PM₁₀ maintenance plan to EPA on June 18, 2009 (hereafter, "revised Cañon City PM₁₀ Maintenance Plan").

As described in 40 CFR 50.6, the level of the national primary and secondary 24-hour ambient air quality standards for PM₁₀ is 150 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). An area attains the 24-hour PM₁₀ standard when the expected number of days per calendar year with a 24-hour concentration in excess of the standard (referred to herein as "exceedance"), as determined in accordance with 40 CFR part 50, appendix K, is equal to or less than one, averaged over a three-year period.² See 40 CFR 50.6 and 40 CFR part 50, appendix K.

¹ In this case, the initial maintenance period described in CAA section 175A extended through 2010. Thus, the second 10-year period extends through 2020.

² An exceedance is defined as a daily value that is above the level of the 24-hour standard, 150 $\mu\text{g}/\text{m}^3$, after rounding to the nearest 10 $\mu\text{g}/\text{m}^3$ (i.e., values ending in five or greater are to be rounded up). Thus, a recorded value of 154 $\mu\text{g}/\text{m}^3$ would not be an exceedance since it would be rounded to 150 $\mu\text{g}/\text{m}^3$; whereas, a recorded value of 155 $\mu\text{g}/\text{m}^3$ would be an exceedance since it would be rounded to 160 $\mu\text{g}/\text{m}^3$. See 40 CFR part 50, appendix K, section 1.0.

Table 1 below shows the maximum monitored 24-hour PM₁₀ values for the Cañon City PM₁₀ maintenance area for 2004 through 2012. The table reflects that the values for the Cañon City area are well below the PM₁₀ NAAQS standard of 150 µg/m³.

Table 1. Cañon City PM₁₀ Maximum 24-Hour Values

Based on Data from City Hall, 128 Main Street, AQS Identification Number 08-043-0003	
Year	Maximum Value (µg/m³)
2004	17*
2005	33
2006	54
2007	31
2008	54
2009	38
2010	31
2011	71
2012	61

* Only operated Oct. - Dec. 2004

Table 2 below shows the estimated number of exceedances for the Cañon City PM₁₀ maintenance area for the three-year periods of 2004 through 2006, 2005 through 2007, 2006 through 2008, 2007 through 2009, 2008 through 2010, 2009 through 2011, and 2010 through 2012. The table reflects continuous attainment of the PM₁₀ NAAQS.

Table 2. Cañon City PM₁₀ Estimated Exceedances

Based on Data from City Hall, 128 Main Street, AQS Identification Number 08-043-0003	
Design Value Period	3-Year Estimated Number of Exceedances
2004 – 2006	0
2005 – 2007	0
2006 – 2008	0
2007 – 2009	0
2008 – 2010	0
2009 – 2011	0
2010 – 2012	0

III. What was the State's Process?

Section 110(a)(2) of the CAA requires that a state provide reasonable notice and public hearing before adopting a SIP revision and submitting it to EPA.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the revised Cañon City PM₁₀ Maintenance Plan on November 20, 2008. The AQCC approved and adopted the revised Cañon City PM₁₀ Maintenance Plan during this hearing. The Governor's designee submitted the revised plan to EPA on June 18, 2009.

We have evaluated the revised maintenance plan and have determined that the State met the requirements for reasonable public notice and public hearing under section 110(a)(2) of the CAA. On December 18, 2009, by operation of law under CAA section 110(k)(1)(B), the revised

maintenance plan was deemed to have met the minimum “completeness” criteria found in 40 CFR part 51, appendix V.

IV. EPA’s Evaluation of the Revised Cañon City PM₁₀ Maintenance Plan

The following are the key elements of a maintenance plan for PM₁₀: Emission Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Transportation Conformity Requirements: Motor Vehicle Emission Budget for PM₁₀. Below, we describe our evaluation of these elements as they pertain to the revised Cañon City PM₁₀ Maintenance Plan.

A. Emission Inventory

The revised Cañon City PM₁₀ Maintenance Plan includes two inventories of daily PM₁₀ emissions for the Cañon City area, one for 2006 and one for 2020. The Air Pollution Control Division (APCD) developed these emission inventories using EPA-approved emissions modeling methods and updated transportation and demographics data. Each emission inventory is a list, by source category, of the air contaminants directly emitted into the Cañon City PM₁₀ maintenance area. A more detailed description of the 2006 and 2020 inventories and information on model assumptions and parameters for each source category are contained in the State’s PM₁₀ maintenance plan Technical Support Document (TSD). Included in both inventories are agriculture, highway vehicle exhaust, railroads, road dust, commercial cooking, construction, fuel combustion, non-road sources, structure fires, woodburning, and stationary sources. We find that Colorado has prepared adequate emission inventories for the area.

B. Maintenance Demonstration

The revised Cañon City PM₁₀ Maintenance Plan uses emission roll-forward modeling to

demonstrate maintenance of the 24-hour PM_{10} NAAQS through 2020. Using the 2006 and 2020 emissions inventories, the State first determined the projected growth in PM_{10} emissions from the 2006 base year to the 2020 maintenance year. The State estimated that emissions would increase from 2,149.0 pounds per day in 2006 to 2,736.6 pounds per day in 2020. This represents an increase of 27.3 percent.

The State then applied this percentage increase to the design day concentration of $56 \mu\text{g}/\text{m}^3$, which was the highest 24-hour maximum PM_{10} value recorded in Cañon City from 2005-2007. This resulted in an estimated maximum 24-hour PM_{10} concentration in 2020 of $71.3 \mu\text{g}/\text{m}^3$. This is well below the 24-hour PM_{10} NAAQS of $150 \mu\text{g}/\text{m}^3$.

At EPA's request, the State provided supplemental emissions inventories in April of 2011. These inventories differ from those in the revised Cañon City PM_{10} Maintenance Plan in two respects. First, they reflect potential point source emissions, not just projected actual point source emissions. Second, they reflect annual emissions, not daily.

EPA requested this information from the State because the original maintenance plan reviewed the emissions inventories for projected actual point source emissions and potential point source emissions for demonstration of maintenance, however, the June 18, 2009 maintenance plan did not contain the inventory for potential point source emissions. Therefore, for a complete review of the second 10-year maintenance plan by EPA this information was needed.

To further assess the State's maintenance demonstration, we conducted an additional roll-forward analysis using information from these inventories. We compared the projected annual inventory for 2020 of 540.85 tons per year of PM_{10} from all source categories (which is based on

potential emissions from point sources) to the annual inventory for 2006 for all source categories of 392.11 tons per year of PM₁₀ (which is based on actual emissions from point sources) to arrive at a projected increase in area emissions of 37.9% between 2006 and 2020. We then applied this percentage increase to the same design day concentration of 56 µg/m³ that the State used. Doing so, we calculated a projected maximum 24-hour PM₁₀ concentration in 2020 of 77.22 µg/m³. This value is also well below the 24-hour PM₁₀ NAAQS of 150 µg/m³ and confirms the State's maintenance demonstration. Thus, the State has adequately demonstrated that the Cañon City area will maintain the PM₁₀ NAAQS through 2020.

C. Monitoring Network/Verification of Continued Attainment

In the revised Cañon City PM₁₀ Maintenance Plan, the State commits to continue to operate an air quality monitoring network in accordance with 40 CFR part 58 to verify continued attainment of the PM₁₀ NAAQS. This includes the continued operation of a PM₁₀ monitor in the Cañon City area, which the State will rely on to track PM₁₀ emissions in the maintenance area. The State also commits to conduct an annual review of the air quality surveillance system in accordance with 40 CFR 58.20(d) to determine whether the system continues to meet the monitoring objectives presented in appendix D of 40 CFR part 58. Additionally, the State commits to track and document PM₁₀ mobile source parameters and new and modified stationary source permits. If these and the resulting emissions change significantly over time, the APCD will perform appropriate studies to determine: 1) whether additional and/or re-sited monitors are necessary, and 2) whether mobile and stationary source emissions projections are on target.

Based on the above, we are taking final action approving these commitments as satisfying the relevant requirements. These commitments are similar to those we approved in the original

maintenance plan.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of an area. To meet this requirement the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures.

As stated in the revised Cañon City PM₁₀ Maintenance Plan, the contingency measures will be triggered by a violation of the PM₁₀ NAAQS. However, the maintenance plan notes that an exceedance of the PM₁₀ NAAQS may initiate a voluntary, local process by Cañon City and the APCD to identify and evaluate potential contingency measures.

Cañon City, in coordination with the APCD, AQCC, and the Colorado Department of Transportation (CDOT) will initiate a process to begin evaluating potential contingency measures no more than 60 days after notification from APCD that a violation of the PM₁₀ NAAQS has occurred. The AQCC will then hold a public hearing to consider the contingency measures recommended by Cañon City, APCD and CDOT along with any other contingency measures the AQCC believes may be appropriate to effectively address the violation. The State commits to adopt and implement any necessary contingency measures within one year after a violation occurs.

The State identifies the following as potential contingency measures in the revised Cañon City PM₁₀ Maintenance Plan: 1) increased street sweeping requirements; 2) expanded, mandatory use of alternative de-icers; 3) more stringent street sand specifications; 4) road paving requirements; 5) woodburning restrictions; 6) re-establishing new source review permitting

requirements for stationary sources; and 7) other emission control measures appropriate for the area based on consideration of cost effectiveness, PM₁₀ emission reduction potential, economic and social considerations, or other factors.

We find that the contingency measures provided in the revised Cañon City PM₁₀ Maintenance Plan are sufficient and meet the requirements of section 175A(d) of the CAA.

E. Transportation Conformity Requirements: Motor Vehicle Emission Budget for PM₁₀

Transportation conformity is required by section 176(c) of the CAA. EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. To effectuate its purpose, the conformity rule requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget(s) (MVEB(s)) contained in a control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area. Further information concerning EPA's interpretations regarding MVEBs can be found in the preamble to EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193 – 62196).

The revised Cañon City PM₁₀ Maintenance Plan contains a single MVEB of 1,613 lbs/day of PM₁₀ for the year 2020, the maintenance year. Once the State submitted the revised

plan with the 2020 MVEB to EPA for approval, 40 CFR 93.118 required that EPA determine whether the MVEB was adequate.

Our criteria for determining whether a SIP's MVEB is adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4), which was promulgated August 15, 1997 (see 62 FR 43780). Our process for determining adequacy is described in our July 1, 2004 Transportation Conformity Rule Amendments (see 69 FR 40004) and in relevant guidance.³ We used these resources in making our adequacy determination described below.

On March 15, 2011, EPA announced the availability of the revised Cañon City PM₁₀ Maintenance Plan, and the PM₁₀ MVEB, on EPA's transportation conformity adequacy website. EPA solicited public comment on the MVEB, and the public comment period closed on April 14, 2011. We did not receive any comments. This information is available at EPA's conformity website: <http://www.epa.gov/otaq/stateresources/transconf/currrips.htm#canon>.

By letter to the Colorado Department of Public Health and Environment (CDPHE) dated May 4, 2011, EPA found that the revised Cañon City PM₁₀ Maintenance Plan and the 2020 PM₁₀ MVEB were adequate for transportation conformity purposes.⁴ However, we noted in our letter that the revised Cañon City PM₁₀ Maintenance Plan did not discuss the PM₁₀ MVEB for 2015 of 7,439 lbs/day from the original PM₁₀ maintenance plan that EPA approved in 2000 (see 65 FR 34399, May 30, 2000).

³ "Companion Guidance for the July 1, 2004 Final Transportation Conformity Rule, Conformity Implementation in Multi-Jurisdictional Nonattainment and Maintenance Areas for Existing and New Air Quality Standards" (EPA420-B-04-012 July, 2004).

⁴ In a **Federal Register** notice dated August 2, 2011, we notified the public of our finding (see 76 FR 46288). This adequacy determination became effective on August 17, 2011.

According to 40 CFR 93.118(e)(1), the EPA-approved 2015 PM₁₀ MVEB must continue to be used for analysis years 2015 through 2019 (as long as such years are within the timeframe of the transportation plan), unless the State elects to submit a SIP revision to revise the 2015 PM₁₀ MVEB and EPA approves the SIP revision. This is because the revised Cañon City PM₁₀ Maintenance Plan did not revise the previously-approved 2015 PM₁₀ MVEB nor establish a new MVEB for 2015. Accordingly, the MVEB "... for the most recent prior year..." (i.e., 2015) from the original maintenance plan must continue to be used (see 40 CFR 93.118(b)(1)(ii) and (b)(2)(iv)).

We note that there is a considerable difference between the 2020 and 2015 budgets - 1,613 lbs/day versus 7,439 lbs/day. This is largely an artifact of changes in the methods, models, and emission factors used to estimate mobile source emissions. The 2020 MVEB is consistent with the State's 2020 emissions inventory for vehicle exhaust and road dust, and, thus, is consistent with the State's maintenance demonstration for 2020.

The discrepancy between the 2015 and 2020 MVEBs is not a significant issue for several reasons. As a practical matter, the 2020 MVEB of 1,613 lbs/day of PM₁₀ would be controlling for any conformity determination involving the relevant years because conformity would have to be shown to both the 2015 MVEB and the 2020 MVEB. Also, for any maintenance plan, such as the revised Cañon City PM₁₀ Maintenance Plan, that only establishes a MVEB for the last year of the maintenance plan, 40 CFR 93.118(b)(2)(i) requires that the demonstration of consistency with the budget be accompanied by a qualitative finding that there are no factors that would cause or contribute to a new violation or exacerbate an existing violation in the years before the last year of the maintenance plan. Therefore, when a conformity determination is prepared

which assesses conformity for the years before 2020, the 2020 MVEB and the underlying assumptions supporting it would have to be considered. Finally, 40 CFR 93.110 requires the use of the latest planning assumptions in conformity determinations. Thus, the most current motor vehicle and road dust emission factors would need to be used, and we expect the analysis would show greatly reduced PM₁₀ motor vehicle and road dust emissions from those calculated in the first maintenance plan. In view of the above, EPA is approving the 2020 PM₁₀ MVEB of 1,613 lbs/day.

V. Final Action

We are approving the revised Cañon City PM₁₀ Maintenance Plan that was submitted to us on June 18, 2009. We are approving the revised maintenance plan because it demonstrates maintenance through 2020 as required by CAA section 175A(b), retains the control measures from the initial PM₁₀ maintenance plan that EPA approved in May of 2000, and meets other CAA requirements for a section 175A maintenance plan. Our approval includes approval of the revised maintenance plan's 2020 transportation conformity MVEB for PM₁₀ of 1,613 lbs/day.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic

impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule as meeting Federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with

applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq).

The Congressional Review Act, 5 U.S.C. 801 et seq, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this

action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 20, 2013.

Shaun L. McGrath,
Regional Administrator,
Region 8.

40 CFR part 52 is amended as follows:

PART 52 -- APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart G – Colorado

2. Section 52.332 is amended by adding paragraph (q) to read as follows:

§52.332 Control strategy: Particulate matter.

* * * * *

(q) Revisions to the Colorado State Implementation Plan, PM10 Revised Maintenance Plan for Cañon City, as adopted by the Colorado Air Quality Control Commission on November 20, 2008, State effective on December 30, 2008, and submitted by the Governor's designee on June 18, 2009. The revised maintenance plan satisfies all applicable requirements of the Clean Air Act.